

REMARKS

This Response Under 37 C.F.R. §1.115 is respectfully submitted in response to the Office Action rendered June 9, 2005. It is timely submitted in view of the Petition for Extension of Time submitted concurrently herewith.

The Office Action of June 9, 2005 rejected Claims 1 - 6 under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,537,211 to Wang et al. (hereinafter, the “‘211 patent”).

The Office Action of June 9, 2005 further rejected Claims 7 - 24 as being unpatentable over Lucchina et al. “Fluorescence photography in the evaluation of acne”, Journal of the American Academy of Dermatology Vol. 35, Number 1, pp. 58-63 (“Lucchina”) in view of the ‘211 patent.

The Office Action gave the basis for the rejection of Claims 1 - 6 under 35 U.S.C. 102(e) as being anticipated by the ‘211 patent as follows:

...the Wang reference discloses in Figures 12-13, a method of photographing (by CCD electronic color camera...) the skin of a person (**tissues of person**), said method comprising: (i) illuminating said skin with at least one light source, wherein said light source either emits substantially only light having a wavelength from about 380 to about 430 nm or emits light through a filter that emits substantially only light having a wavelength from about 380 to 430 nm... and (ii) capturing the image of said illuminated skin with a camera (CCD camera); wherein the light entering said camera is also filtered with a long pass filter, wherein said long pass filter substantially eliminates light having a wavelength below about 400 nm...[Office Action, p. 2] (emphasis added)

Applicant respectfully requests reconsideration of the rejection set forth in the Office Action in view of the ensuing discussion.

Applicants’ invention is drawn to a method of photographing the skin of a person [Specification, p.2, l. 31 – p. 3, l. 9]. Thus, the method of their invention is useful for studying acne, wrinkles, oily skin, erythema and other skin conditions [See, for example, Specification, p. 23, l. 1-7]. The ‘211 patent describes endoscopic imaging equipment and procedures that are useful for photographing the **tissues of a person**, such as diagnosing adenoma tumors in the colon or internal organs (see col. 1, l. 16 – 18 and Claim 1). This photography is performed **internal** to the individual. In contrast with the methods of applicants’ invention, the ‘211 patent does not teach or suggest photographing the **surface of the skin of a person**. Applicants

respectfully submit that because the '211 patent does not teach photographing the skin of a person, and respectfully request the reconsideration of the the rejection under 35 U.S.C. 102(e).

The Office Action of June 9, 2005 further rejected Claims 7 - 24 under 35 U.S.C. 103(a) as being obvious over Lucchina in view of the '211 patent. The basis for this rejection was as follows:

...the Lucchina reference discloses in Figure 1, a method of promoting a skin care product... said method comprising: (i) illuminating said skin with at least one light source (fluorescence Flash), (ii) capturing the image of said illuminated skin with a camera, wherein the light entering said camera is also filtered with a long pass filter; wherein said long pass filter substantially eliminates light having a wavelength below about 400 nm... (iii) presenting said image to said person; and (iv) suggesting skin care products based upon said person's review of said image... However, the Lucchina reference does not explicitly show wherein said light source either emits substantially only light having a wavelength from about 380 to about 430 nm or emits light through a filter that emits substantially only light having a wavelength from about 380 to about 430 nm... The Wang reference teaches in Figures 12-13, a method of photographing... tissues of a person... [Office Action, p. 3-4]

As the Office Action noted, the Lucchina reference neither teaches nor suggests the use of a light source that emits light only between about 380 nm and 430 nm or the use of a light through a filter that emits light only between about 380 nm and 430 nm. Certain types of tissue absorb energy at different wavelengths than others. Therefore, the wavelength of light utilized in the method enables different visualizations than other wavelengths would provide. When analyzing skin using the method of the present invention, Applicants are able to assess the presence of, *inter alia* acne, oil, wrinkles and erythema.

As indicated above, the '211 patent does not teach or suggest photographing the surface of the skin of a person. Not only do different tissues absorb energy differently, light conditions are quite different between the internal photographic environment and that external to the body. There is no motivation given in either the Lucchina reference nor the '211 patent to one of ordinary skill in the art to utilize the type of endoscopic photography in an external environment.

Applicants also respectfully submit that Lucchina describes the evaluation of acne lesions which have been treated with a clindamycin product, rather than a method of promoting a skin care product to an individual. Applicants respectfully suggest that one of ordinary skill in the art,

without the benefit of knowledge of the methods of applicants' invention, have been motivated to arrive at a method of promoting a skin care product utilizing fluorescence photography with the claimed wavelength range based upon the study set forth in Lucchina. Nowhere in Lucchina is there a suggestion or description of showing the resulting photographs to study subjects with the suggestion of skin care products based upon such photographs. In the Lucchina reference, the skin care product (clindamycin) had already been chosen prior to the start of the study. Thus, applicants respectfully submit that Lucchina neither describes nor suggests the methods of applicants' invention.

Applicants further respectfully submit that one of ordinary skill in the art would not have been motivated to utilizing the endoscopic procedures set forth in the '211 patent to diagnose skin conditions in an environment external to the body with specific wavelengths of light are useful for endoscopic photography internal to the body. For the foregoing reasons, Applicants respectfully submit that the Lucchina reference in combination with the '211 patent would not have led one of ordinary skill in the art to the methods of applicants' invention. Applicants therefore respectfully request reconsideration of the rejections under 35 U.S.C. 103(a) set forth in the Office Action.

In view of the foregoing discussion, applicants respectfully request reconsideration of the rejections set forth in the Office Action of June 9, 2005. If the Examiner feels that a discussion with Applicant's representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicant's representative at the number provided below. An early allowance is earnestly solicited.

Respectfully submitted,

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